

## § 21.58

Division shall determine whether a period of extended evaluation is needed.

(Authority: 38 U.S.C. 3106(c))

[49 FR 40814, Oct. 18, 1984, as amended at 53 FR 50956, Dec. 19, 1988; 54 FR 37332, Sept. 8, 1989; 62 FR 17707, Apr. 11, 1997]

### **§ 21.58 Redetermination of employment handicap and serious employment handicap.**

(a) *Prior to induction into a program.* A determination as to employment handicap, serious employment handicap, or eligibility for a program of employment services will not be changed except for:

(1) Unmistakable error in fact or law; or

(2) New and material evidence which justifies a change.

(b) *After induction into a program.* (1) The Department of Veterans Affairs will not redetermine a finding of employment handicap, serious employment handicap, or eligibility for a program of employment services subsequent to the veteran's induction into a program because of a reduction in his or her disability rating, including a reduction to 0 percent:

(2) The Department of Veterans Affairs may consider whether a finding of employment handicap should be changed to serious employment handicap when there is an increase in the degree of service-connected disability, or other significant change in the veteran's situation;

(3) A redetermination of employment handicap, serious employment handicap, or eligibility for a program of employment services will be made when there is a clear and unmistakable error of fact or law.

(Authority: 38 U.S.C. 3102, 3106)

(c) *Following rehabilitation or discontinuance.* A veteran's eligibility and entitlement to assistance must be redetermined in any case in which:

(1) The veteran is determined to be rehabilitated to the point of employability under the provisions of § 21.190;

(2) The veteran is determined to meet the requirements for rehabilitation under the provisions of § 21.196; or

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(3) The veteran's program is discontinued under the provisions of § 21.198, except as described in § 21.198(c)(3).

(Authority: 38 U.S.C. 3102, 3111)

### **§ 21.59 Review and appeal of decisions on eligibility and entitlement.**

A veteran may appeal decisions of the Vocational Rehabilitation and Counseling staff on eligibility and entitlement to rehabilitation services to the Board of Veterans Appeals as provided in § 19.2 of Title 38, CFR. However, the veteran or an accredited representative, on his or her behalf, may request administrative review by Central Office prior to filing an appeal to BVA. A case already on appeal to BVA may not be referred to Central Office for administrative review or advisory opinion.

(Authority: 38 U.S.C. 3107(c))

#### VOCATIONAL REHABILITATION PANEL

### **§ 21.60 Vocational Rehabilitation Panel.**

(a) *Establishment of the Panel.* A Vocational Rehabilitation Panel will be established at each field facility by the facility head. The purpose of the Panel is to provide technical assistance in the planning of rehabilitation programs for seriously disabled veterans and dependents. This purpose will be most effectively carried out through use of the services of a wide range of professionals to bring the resources of the Department of Veterans Affairs and the community to bear on problems presented in the individual case.

(Authority: 38 U.S.C. 3104(a))

(b) *Composition of the Panel.* The Panel will include, but not be limited to the following:

(1) A counseling psychologist in the VR&C (Vocational Rehabilitation and Counseling) Division as the chairperson;

(2) A vocational rehabilitation specialist in VR&C;

(3) A medical consultant from a Department of Veterans Affairs Medical Center;

(4) A member of the Social Services staff from a Department of Veterans Affairs Medical Center; and